

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

2011 MAY -6 AM 11:16

CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS

RHETT W. PEASE, individually and as
Best friend to and parent of and on behalf
WCP and BCP, minors,
Plaintiffs,

v.

TEXAS DEPARTMENT OF FAMILY AND
PROTECTIVE SERVICES, JANELL
PEASE, DANIEL HERBRICH, REBECCA
JIMENEZ, MARTIN PLACKE, LEE COUNTY,
TEXAS, ANNE HEILIGENSTEIN, JOHN
DELANEY, SUSAN MARQUESS, KATHY
WEISHUHN and GLENN H. WILLIAMS
Defendants.

CIVIL ACTION NO. 1:11-CV-305-LY

DEPUTY

REQUEST FOR ENTRY
OF DEFAULT JUDGMENT
AGAINST JANELL PEASE

PLAINTIFF'S REQUEST FOR ENTRY OF DEFAULT

Plaintiff asks the clerk of the court to enter default against defendant, JANELL PEASE as authorized by Federal Rule of Civil Procedure 55.

A. Introduction

1. Rhett Webster Pease is plaintiff. JANELL PEASE is a defendant.
2. On March 17, 2011, Plaintiff sued the defendants for unlawfully severing his parental relationship with his son BCP. The suit also alleges that Janell Pease and Rebecca Jimenez made false reports of child abuse that was the cause of the current deprivation.
3. On March 22, 2011, JANELL PEASE was served with a summons and complaint as evidenced in Doc 1-4, pages 61-63 of the record accompanying the removal. Defendant did not file a responsive pleading or otherwise defend the suit.
4. Plaintiff is, therefore, entitled to entry of default.

B. Argument & Authorities

5. The clerk of the court may enter default against a party who has not filed a responsive pleading or otherwise defended the suit. Fed.R.Civ.P 55(a); *N.Y. Life Ins. Co. v. Brown*, 84 F.3d 137, 141 (5th Cir. 1996).
6. The clerk should enter a default against defendants because defendant did not file an answer within 20 days after February 4, 2010. Fed.R.Civ.P. 12(a)(1)(A).
7. Plaintiff meets the procedural requirements for obtaining entry of default from the clerk as demonstrated by Rhett Webster Pease's sworn affidavit, attached as Exhibit C.
8. Because defendant did not file a responsive pleading or otherwise defend the suit, defendant is not entitled to notice of entry of default. See *Direct Mail Specialists, Inc., v. Eclat Computerized Tech., Inc.*, 840 F.2d 685, 689 (9th Cir. 1988).

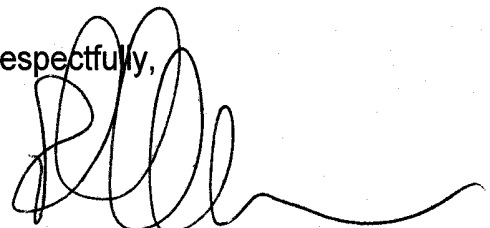
C. Conclusion

9. Defendant was properly served with service of process, the time since service has been more than 20 days. The return of service has been on the record of the court for more than ten days.

D. Prayer

10. For these reasons, plaintiff asks the clerk to enter default against Janell Pease in favor of plaintiff.

Respectfully,

A handwritten signature in black ink, appearing to read 'Rhett Webster Pease', with a long horizontal flourish extending to the right.

Rhett Webster Pease
6715 Skynook Drive
Austin, Texas 78745
(512) 699-0164

CERTIFICATE OF SERVICE

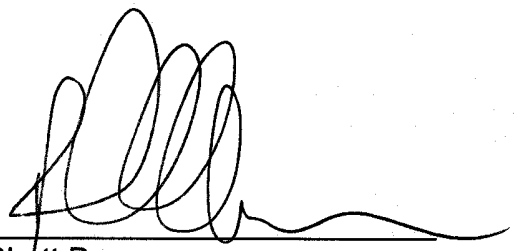
I, Rhett Pease do hereby certify that I have sent a true and correct copy of the notice of appearance to the following on this the 3rd day of May, 2011:

Gunnar P. Seaquist
Texas Attorney General
P.O. Box 12548, Capitol Station
Austin, Texas 78711

Guajardo & Guajardo
1504 San Antonio Street, Suite 200
Austin, Texas 78701

Janell Pease
6044 W. FM 66
McDade, Texas 78650

Rebecca Jimenez
117 Markert Drive #2
Elgin, Texas 78621


Rhett Pease

CITATION
THE STATE OF TEXAS
CAUSE NO. D-1-GN-11-000761

RHETT W PEASE, INDIVIDUALLY AND BEST FRIEND TO PARENT OF AND ON BEHALF OF WCP
AND BCP BCP, MINORS

, Plaintiff

vs.

TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES, JANEL PEASE, DANIEL
HERBRICH, REBECCA JIMENEZ, MARTIN PLACKE, LEE COUNTY, TEXAS, BURLESON COUNTY,
TEXAS, ANNE HEILIGENSTEIN, JOHN DELANEY, SUSAN MARQUESS, KATHY WEISHUHN AND
GLENN H WILLIAMS

, Defendant

TO: JANEL PEASE
6044 W. FM 696
MCDADE, TEXAS 78650

Defendant, in the above styled and numbered cause:

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written
answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the
expiration of twenty days after you were served this citation and petition, a default judgment may
be taken against you.

Attached is a copy of the PLAINTIFF'S ORIGINAL PETITION of the PLAINTIFF in the above styled and
numbered cause, which was filed on MARCH 14, 2011 in the 126TH JUDICIAL DISTRICT COURT of Travis
County, Austin, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at office, March 15, 2011.

REQUESTED BY:
CAROLYN BARNES
419 INDIAN TRAIL
LEANDER, TX 78641
BUSINESS PHONE: (512) 388-6000
FAX: (512) 388-4000



Amalia Rodriguez-Mendoza
ANALIA RODRIGUEZ-MENDOZA
Travis County District Clerk
Travis County Courthouse
1000 Guadalupe, P.O. Box 679003 (78767)
Austin, TX 78701

PREPARED BY: GARZA STEPHANIE

RETURN

Came to hand on the _____ day of _____, _____ at _____ o'clock _____ M., and executed at
_____ within the County of _____ on the
_____ day of _____, _____, at _____ o'clock _____ M., by delivering to the within named
_____ each in
person, a true copy of this citation together with the PLAINTIFF'S ORIGINAL PETITION AND NOTICE OF FILING OF NEW
FILE MANDATE ORDER accompanying pleading, having first attached such copy of such citation to such copy of
pleading and endorsed on such copy of citation the date of delivery.

Service Fee: \$ _____

Sworn to and subscribed before me this the

_____ day of _____, _____.



Bruce Elfant
Constable Pct 5
Shelby County, Texas

By: _____

Printed Name of Server _____

Notary Public, THE STATE OF TEXAS

RECEIVED

D-1-GN-11-000761

☒ Original

☐ Service Copy

2011 MAR 15 AM 10:03
CONSTABLE PRECINCT 5
TRAVIS COUNTY, TEXAS

CONSTABLE

P01 - 04180

FILED 04/05/2011 09:25 AM Travis County District Clerk, Amalia Rodriguez-Mendoza

Cause No. D1GN11000761

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In the 126TH District Court
TRAVIS County

Plaintiff:

PEASE, RHETT W INDIVIDUALLY
AND BEST FRIEND TO PARENT OF
AND ON BEHALF OF WCP AND BCP
BCP MINORS

Defendant:

TEXAS DEPARTMENT OF FAMILY
AND PROTECTIVE SERVICES,
JANELLE PEASE, DANIEL HERBRICH,
REBECCA JIMENEZ, MARTIN
PLACKE, LEE COUNTY TEXAS,
BURLESON COUNTY TEXAS, ANNE
HEILIGENSTEIN, JOHN DELANEY,
SUSAN MARQUESS, KATHY
WEISHUHN AND GLENN H
WILLIAMS

Officer's Return

Came to hand March 15, 2011 at 10:08 A.M. and executed in BASTROP
County, Texas, on March 22, 2011 at 5:00 P.M. by delivering to PEASE,
JANELLE at 6044 FM 696, W MCDADE TX 78650, by certified mail, number
7005 1160 0001 0641 3690 return receipt requested, restricted delivery, a
true copy of the Citation together with THE PLAINTIFF'S ORIGINAL PETITION
AND NOTICE OF FILING OF NEW EFILE MANDATE ORDER.

Bruce Elfant,
Travis County Constable Precinct 5
Travis County, Texas

by: _____

Deputy

MIRACLE MOUNT

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com.

OFFICIAL USE

Postage 16 2011
Certified Fee 16 2011
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)
Total Postage & Fees 16 2011

Postmark Here

D1GN11000761-5
Janell Pease
6044 FM 696, W
MCDADE TX 78650

7005 1160 0001 0641 3690

PS Form 3800, June 2007 See reverse for instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature <u>Janell Pease</u> <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee
	B. Received by (Printed Name) <u>Janell Pease</u> C. Date of Delivery <u>16 2011</u>
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, delivery address below:
1. D1GN11000761-5 Janell Pease 6044 FM 696, W MCDADE TX 78650	3. Service type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.
RESTRICTED DELIVERY ADDRESSEE ONLY	4. Restricted Delivery? (Extra Fee) <input checked="" type="checkbox"/> Yes
2. Article Number (Transfer from service label) <u>7005 1160 0001 0641 3690</u>	

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-04-1540

